

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

RETAIL ACCESS OPTIMIZATION INITIATIVE

Docket No. N2011-1

**REPLY OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION TO  
AMERICAN POSTAL WORKERS UNION, AFL-CIO, MOTIONS TO COMPEL  
RESPONSES TO INTERROGATORIES APWU/USPS-T-9 THROUGH 11  
(September 30, 2011)**

On September 13, 2011, the American Postal Workers Union submitted interrogatory APWU/USPS-9, followed on September 15, 2011 by interrogatories APWU/USPS-10 and 11.<sup>1</sup> On September 20 and 22, 2011, the United States Postal Service objected to these interrogatories. On September 22 and 23, APWU filed motions to compel responses. This pleading serves as the Postal Service's reply to those motions and incorporates the objections referenced above. As explained below, the Commission should deny both APWU motions.

**APWU/USPS-9**

At page 3 of its September 22<sup>2</sup> motion to compel a response to APWU/USPS-9, APWU references the Chairman's directive at the September 8, 2011 evidentiary hearing (Tr. Vol. 1 at 600) that parties seeking to conduct follow-up examination of Postal Service witness Granholm would be permitted to submit questions in writing through the following day. On page 4 of that motion, APWU also references an exchange between counsel for the Public Representative and the Chairman at the close of the September 8 evidentiary

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<sup>1</sup> For ease of reference, the interrogatories are reflected in an attachment to this pleading.

<sup>2</sup> As revised on September 23, 2011.

hearing (Tr. Vol. 1 at 624) and characterizes it as providing the parties *carte blanche* to continue written discovery against the Postal Service, notwithstanding the passage of deadlines that were established in Order No. 778 and Presiding Officer's Ruling No. N2011-1/14.

The exchange between Public Representative counsel and the Chairman at page 624 must be viewed in its proper context. It occurred after cross-examination of witness Boldt during which Public Representative counsel and Postal Service counsel conferred to determine whether a particular line of cross-examination being pursued by the Public Representative (a) delved into matters that were non-public and (b) might be best approached in a manner that did not breach the non-public status of the information sought. Tr. Vol. 1 at 532-536. As a result of that exchange, it was determined that the Public Representative would pursue that specific line of inquiry via written interrogatories after the hearing, which would permit the Postal Service to respond in a non-public manner in writing. Accordingly, interrogatories PR/USPS-20 and 21 were filed the very next day, September 9, 2011. Responses were filed on September 23, 2011, accompanied by non-public Library Reference N2011-1/NP15 on September 26, 2011.

The Postal Service submits that the Tr. Vol. 1 page 624 exchange between the Public Representative and the Chairman merely addressed the matter raised during cross-examination at pages 532-536. Accordingly, APWU is misguided in interpreting the Chairman's comment at page 624 as an invitation "applicable to all parties" to submit written follow-up questions on other matters

raised during cross-examination (such as at pages 514-517). Likewise, APWU's reference to the Chairman's decision at page 600 to allow parties to submit written follow-up cross-examination of witness Granholm by close of business on September 9 does not negate the August 30 deadline for written discovery on witness Boldt or the September 9 deadline for institutional discovery established by Presiding Officer's Ruling No. N2011-1/14. Contrary to the apparent perception of APWU, that is the reality of the circumstances of the September 8, 2011 evidentiary hearing.

At page 3 of its motion, APWU argues that parties are "entitled to review any responses to customer comments" submitted during the course of each facility-specific Retail Access Optimization Initiative discontinuance review "to ensure that public concerns are given the proper consideration." In essence, APWU seeks to transform the section 3661 advisory review process. Its purpose would no longer be to review whether the nature of the changes in service expected to result from the RAO Initiative's application of the USPS Handbook PO-101 discontinuance process would conform to the policies of title 39 United States Code. Instead, it would become a tribunal for case-by-case review of the Postal Service's responses to each and every customer comment submitted during hundreds, if not several thousand facility-specific postal management RAO Initiative discontinuance reviews, before postal management makes any facility-specific decisions, and before any such decisions are appealed to the Commission under 39 U.S.C. § 404(d)(5). APWU should not be permitted to turn

the section 3661 review process on its head to serve its section 404(d)(5) agenda.

**APWU/USPS-10 and 11**

At pages 1 and 2 of its September 23 motion to compel a response to APWU/USPS-10, APWU alleges that the belated nature of its discovery request is justified by the fact that it was "prevented" from conducting follow-up examination of witness Boldt at the evidentiary hearing on September 8, 2011. However, as the transcript of that evidentiary hearing makes clear, APWU elected not to cross-examine witness Boldt and bypassed the opportunity to conduct follow-up examination at the conclusion of the extensive questioning by the other intervenors and the Commission. As explained above in reference to APWU/USPS-9, there is no reasonable basis for inferring that the Chairman at the September 8 hearing generally extended the September 9 deadline for institutional discovery or invited the parties to forego follow-up oral cross-examination of witness Boldt. If APWU mistakenly believed otherwise, the consequences of that mistake should be confined to APWU.

On August 31, 2011, the Postal Service filed its response to PR/USPS-12. It confirmed that District-level feasibility review of the 3650 RAO Initiative candidate facilities had advanced to the point since late July that some determinations had been made that discontinuance of certain retail facilities in Alaska was not feasible, and that the RAO Initiative discontinuance review should focus on the remainder of the candidate pool.<sup>3</sup>

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<sup>3</sup> The facilities within the scope of the interrogatory numbered 25, but its focus was limited to the state of Alaska. Given the nationwide scope of the RAO Initiative, it is reasonable to expect that

In its September 23 motion to compel, APWU admits that it elected not to exercise its opportunity to direct a follow-up interrogatory in reaction to the information revealed in response to PR/USPS-12. APWU also confesses that it elected not to conduct oral cross-examination of witness Boldt regarding the subject matter, even when he revealed at the September 8 hearing that the 25 Alaska facilities within the scope of PR/USPS-12 were far from being the only facilities no longer under consideration, and that the systemwide figure was approximately 80. In a vain effort to rationalize its failure to pursue written discovery of the August 31 response to PR/USPS12, APWU argues that it did not know the nationwide figure until September 8, 2011. However, the *number* of facilities no longer under consideration on any given day is immaterial. APWU was aware of *impact* of the discontinuance review process *on the status* of RAO Initiative candidate facilities in Alaska on August 31, but could not be moved to pursue the matter through further discovery. APWU was aware of the broader impact of the process on RAO Initiative candidate facility status nationwide through witness Boldt's testimony on September 8, but could not be moved to cross-examine him, follow up on the questioning by other parties and the

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that the nationwide figure on the date of the interrogatory response was larger. This expectation is borne out by witness Boldt's September 8 testimony (Tr. Vol. 1 at 509-510) that discontinuance as part of the RAO Initiative had been determined infeasible for a total of approximately 80 facilities, a fact confirmed by the filing of USPS Library Reference N2011-1/21. That figure can be expected to grow daily as case-by-case determinations are made based on the factors in USPS Handbook PO-101 regarding which of the 3650 RAO Initiative candidate facilities should continue to be examined for closure, consistent with the rolling review process described at page 22 of USPS-T-1. An update to USPS Library Reference N2011-1/21 is scheduled for next week.

Commission, or to take advantage of the September 9, 2011 deadline for institutional discovery.<sup>4</sup>

At page 3 of its motion, APWU cites the existence of the Commission's rule permitting follow-up interrogatories after the initial discovery period ends. Apparently in the interest of brevity, the APWU motion neglects to acknowledge that such follow-up interrogatories "must be filed within seven days of receipt of the answer to the previous interrogatory unless extraordinary circumstances are shown." 39 C.F.R. § 3001.26(a). APWU points to no extraordinary circumstances to justify waiting 15 days after the response to PR/USPS-12 to submit a follow-up interrogatory seeking to explore changes in the status of candidate facilities.

The purpose of this docket is to provide a basis for the Commission to opine whether the changes in the nature of service expected to result from application of the USPS Handbook PO-101 review process under the RAO Initiative would conform to the policies of title 39 United States Code. As initial discontinuance feasibility determinations shrink the candidate pool, APWU seeks to turn the section 3661 review process into a forum for requiring case-by-case justification for each such determination. That is not its purpose. Case-by-case Commission review of discontinuance determinations is subject to the limitations of 39 U.S.C. § 404(d)(5).

Accordingly, the APWU motions should be denied.

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<sup>4</sup> As explained above in reference to APWU/USPS-9 and 10, there is no reasonable basis for inferring that the Chairman at the September 8 hearing generally extended the September 9 deadline for institutional discovery or invited the parties to forego follow-up oral cross-examination of witness Boldt in exchange for an opportunity to continue written discovery.

Respectfully submitted,

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## **Attachment to September 30 USPS Reply To APWU Motions To Compel**

**APWU/USPS-T-9** During the September 8, 2011 hearing on the Postal Service's direct case, Postal Service Witness Dean Granholm testified about the nature of Postal Service comments in response to individualized customer concerns.

- a) For all facilities under review in the RAOI for which a discontinuance study has begun and public comments have been received, please provide all public comments received and USPS responses to these comments.
- b) How were the responses communicated or how will the responses be communicated to individual commenters and the affected community?
- c) When in the process are these responses provided?
- d) The Station and Branch Optimization and Consolidation ("SBOC") initiative which was the subject of Docket No. N2009-1, utilized the *Post Office Discontinuance and Emergency Suspension System (PODESS)* to track discontinuance and emergency suspension activities. Field coordinators also used PODESS to generate documents for use in the discontinuance studies. Under PODESS, when analyzing customer concerns, postal officials were directed to "use Standard Language for common Customer Concerns and Responses (FDB)." See Slide 31 of USPS-LR-N2009-1/5, Discontinuance of Classified Stations and Branches Training Slides, filed August 13, 2009. Examples of the "standard language for common customer concerns and responses" can be found on Pages 43-55 of Library Reference USPS-LR-N2009-1/6, Station/Branch Optimization/Consolidation Initiative Decision Package Sample Documents and Instructions, filed August 13, 2009 (attached).
  - i) The Postal Service now uses the *Change Suspension Discontinuance Center (CSDC)* to facilitate discontinuance studies and closure decisions in the RAOI. Is CSDC also a document generating system like PODESS? Does CSDC include standard language for responding to customer concerns like what was utilized in PODESS?
  - ii) If the answer to (b)(i) is affirmative, please provide the standard language for responding to customers concerns utilized in CSDC.
  - iii) Please provide all additional direction, including any sample language, regarding the content of customer responses.

## **Attachment to September 30 USPS Reply To APWU Motions To Compel**

**APWU/USPS-10** During the September 8, 2011 hearing on the Postal Service's direct case, Postal Service Witness James Boldt testified about the removal of Alaskan postal facilities from the RAOI list of candidates to be studied for discontinuance.

- a) Please identify each Alaskan facility that was removed from the RAOI list and the rationale for each decision to remove.
- b) Please provide any documentation related to the removal of these facilities from consideration.
- c) Were any of the Alaskan facilities that remain on the RAOI list also studied for possible removal? If so, why did these facilities remain on the list?
- d) Please provide any documentation supporting the decision to keep each remaining Alaskan facility on the RAOI list.

### **APWU/USPS-11**

During the September 8, 2011 hearing on the Postal Service's direct case, Postal Service Witness James Boldt also testified that approximately 80 facilities had been removed from the RAOI list of candidates to be studied for discontinuance.

- a) Please identify each facility removed from the list and the rationale for each decision.
- b) Please provide any documentation related to the removal of these facilities from consideration.